

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
SOUTHEASTERN DIVISION**

UEL JOE FREEMAN,)	
)	
Plaintiff,)	
)	
v.)	No. 1:08-CV-137 CAS
)	
APPELLATE APPEALS COURT)	
SOUTHERN DISTRICT,)	
)	
Defendant.)	

MEMORANDUM AND ORDER

This closed prisoner civil rights matter is before the Court on review of plaintiff's "Motion for Amended Complaint" and motion for appointment of counsel.

Background

Plaintiff, an inmate at the Southeast Correctional Center (SECC) filed the instant action on August 28, 2008. The only named defendant was "Appellate Appeals Court Southern District." Plaintiff alleged that the "state, the public defenders, and the Missouri state courts have blocked [him] at every avenue" by improperly denying certain motions plaintiff attempted to file in a state proceeding. Liberally construing the action under 42 U.S.C. § 1983, the Court concluded that the complaint was legally frivolous because Missouri courts are not suable entities under § 1983. On October 14, 2008, the Court dismissed the complaint, without prejudice, pursuant to 28 U.S.C. § 1915(e)(2)(B).

Discussion

On October 22, 2008, plaintiff filed the instant "Motion for Amended Complaint" in which he names as defendants "J.B." (SECC mailroom employee) and Sandra L. Skinner (Clerk of Court

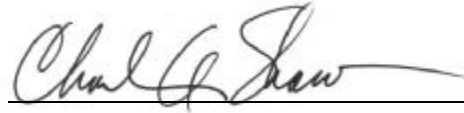
for the Missouri Court of Appeals, Southern District). Liberally construing the proposed amended complaint, plaintiff is alleging that he attempted to file a timely “motion to recall the mandate, vacate judgment, or redocket case for rehearing from [his] 29.15 appeal,” but was prevented from doing so because of collusion between the Clerk of the Missouri Court of Appeals for the Southern District and an SECC mailroom employee. Specifically, plaintiff claims that “all the Appellate Courts has [sic] to do is call the prison and say, [‘]Hey, hold such and such offender[’]s mail up in your mail room, you will not be held accountable.[’]” In other words, plaintiff is alleging the Clerk of Court for the Missouri Court of Appeals, defendant Sandra Skinner, was keeping track of inmates’ cases pending in the Missouri Court of Appeals for the Southern District. When she saw that plaintiff’s Rule 29.15 appeal was denied, she quickly telephoned J.B. in the mailroom at SECC and instructed J.B. to hold, from August 1 to August 4, any mail Uel Joe Freeman attempted to send to the Missouri Court of Appeals for the Southern District, so that whatever he was trying to file would ultimately be untimely. Skinner then assured J.B. that he/she would not be held accountable.

The Court finds that plaintiff’s allegations are wholly incredible and fanciful, such that they are factually frivolous under Denton v. Hernandez, 504 U.S. 25, 32-33 (1991). As a result, plaintiff’s motion to file an amended complaint will be denied.

Accordingly,

IT IS HEREBY ORDERED that plaintiff’s “Motion for Amended Complaint” and motion for appointment of counsel are **DENIED**. [Docs. 14, 15]

IT IS HEREBY CERTIFIED that an appeal from this dismissal would not be taken in good faith. See 28 U.S.C. § 1915(a)(3).

A handwritten signature in black ink, appearing to read "Charles A. Shaw", written over a horizontal line.

CHARLES A. SHAW
UNITED STATES DISTRICT JUDGE

Dated this 24th day of October, 2008.